

WENDELL H. FORD AVIATION INVESTMENT AND REFORM ACT FOR THE 21ST CENTURY

[Public Law 106–181; 114 Stat. 61]

[As Amended Through P.L. 117–286, Enacted December 27, 2022]

[Currency: This publication is a compilation of the text of Public Law 106–181. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>**]**

[Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).**]**

AN ACT To amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Wendell H. Ford Aviation Investment and Reform Act for the 21st Century”.

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TITLE I—AIRPORT AND AIRWAY IMPROVEMENTS

Subtitle A—Funding

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SEC. 103. FAA OPERATIONS.

(a)

(b) **[49 U.S.C. 106 note]** **OFFICE OF AIRLINE INFORMATION.**—There is authorized to be appropriated from the Airport and Airway Trust Fund to the Secretary \$4,000,000 for fiscal years beginning after September 30, 2000, to fund the activities of the Office of Airline Information in the Bureau of Transportation Statistics of the Department of Transportation.

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[Sec. 106. Repealed. P.L. 108–176, sec. 104(c), 117 Stat. 2497.]

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Subtitle B—Airport Development

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SEC. 139. [49 U.S.C. 47104 note] DESIGN-BUILD CONTRACTING.

(a) PILOT PROGRAM.—The Administrator may establish a pilot program under which design-build contracts may be used to carry out up to 7 projects at airports in the United States with a grant awarded under section 47104 of title 49, United States Code. A sponsor of an airport may submit an application to the Administrator to carry out a project otherwise eligible for assistance under chapter 471 of such title under the pilot program.

(b) USE OF DESIGN-BUILD CONTRACTS.—Under the pilot program, the Administrator may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

(1) the Administrator approves the application using criteria established by the Administrator;

(2) the design-build contract is in a form that is approved by the Administrator;

(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

(4) use of a design-build contract will be cost effective and expedite the project;

(5) the Administrator is satisfied that there will be no conflict of interest; and

(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least three or more bids will be submitted for each project under the selection process.

(c) REIMBURSEMENT OF COSTS.—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under chapter 471 of title 49, United States Code, if the project were carried out after a grant agreement had been executed.

(d) DESIGN-BUILD CONTRACT DEFINED.—In this section, the term “design-build contract” means an agreement that provides for both design and construction of a project by a contractor.

(e) EXPIRATION OF AUTHORITY.—The authority of the Administrator to carry out the pilot program under this section shall expire on September 30, 2003.

Subtitle C—Miscellaneous

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SEC. 155. COMPETITION PLANS.

(a)

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(d) **[49 U.S.C. 47101 note] AVAILABILITY OF GATES AND OTHER ESSENTIAL SERVICES.**—The Secretary shall ensure that gates and other facilities are made available at costs that are fair and reasonable to air carriers at covered airports (as defined in section 47106(f)(4) of title 49, United States Code) where a “majority-in-interest clause” of a contract or other agreement or arrangement inhibits the ability of the local airport authority to provide or build new gates or other facilities.

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SEC. 158. [49 U.S.C. 47101 note] CONSTRUCTION OF RUNWAYS.

Notwithstanding any provision of law that specifically restricts the number of runways at a single international airport, the Secretary may obligate funds made available under chapters 471 and 481 of title 49, United States Code, for any project to construct a new runway at such airport, unless this section is expressly repealed.

SEC. 159. [49 U.S.C. 48103 note] NOTICE OF GRANTS.

(a) **TIMELY ANNOUNCEMENT.**—The Secretary shall announce a grant to be made with funds made available under section 48103 of title 49, United States Code, in a timely fashion after receiving necessary documentation concerning the grant from the Administrator.

(b) **NOTICE TO COMMITTEES.**—If the Secretary provides any committee of Congress advance notice of a grant to be made with funds made available under section 48103 of title 49, United States Code, the Secretary shall provide, on the same date, such notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

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TITLE II—AIRLINE SERVICE IMPROVEMENTS

Subtitle A—Small Communities

SEC. 209. MAINTAINING THE INTEGRITY OF THE ESSENTIAL AIR SERVICE PROGRAM.

(a)

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(c) **[49 U.S.C. 41733 note] EFFECT ON CERTAIN ORDERS.**—All orders issued by the Secretary after September 30, 1999, and before the date of the enactment of this Act establishing, modifying, or revoking essential air service levels shall be null and void beginning on the 90th day following such date of enactment. During the 90-day period, the Secretary shall reconsider such orders and shall

issue new orders consistent with the amendments made by this section.

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TITLE III—FAA MANAGEMENT REFORM

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SEC. 304. [49 U.S.C. 44505 note] PILOT PROGRAM TO PERMIT COST-SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

(a) **PURPOSE.**—It is the purpose of this section to improve aviation safety and enhance mobility of the Nation’s air transportation system by encouraging non-Federal investment on a pilot program basis in critical air traffic control facilities and equipment.

(b) **IN GENERAL.**—Subject to the requirements of this section, the Secretary shall carry out a pilot program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects.

(c) **FEDERAL SHARE.**—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117 of title 49, United States Code.

(d) **LIMITATION ON GRANT AMOUNTS.**—No eligible project may receive more than \$15,000,000 under the program.

(e) **FUNDING.**—The Secretary shall use amounts appropriated under section 48101(a) of title 49, United States Code, for fiscal years 2001 through 2003 to carry out the program.

(f) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **ELIGIBLE PROJECT.**—The term “eligible project” means a project relating to the Nation’s air traffic control system that is certified or approved by the Administrator and that promotes safety, efficiency, or mobility. Such projects may include—

(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landings systems, weather and wind shear detection equipment, lighting improvements, and control towers;

(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and offshore flight tracking.

(2) **PROJECT SPONSOR.**—The term “project sponsor” means a public-use airport or a joint venture between a public-use airport and one or more air carriers.

(g) **TRANSFERS OF EQUIPMENT.**—Notwithstanding any other provision of law, project sponsors may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, and automation tools, the purchase of which was assisted by a grant made under this section. The Administration shall accept

such facilities, equipment, and automation tools, which shall thereafter be operated and maintained by the Administration in accordance with criteria of the Administration.

(h) GUIDELINES.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall issue advisory guidelines on the implementation of the program.

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TITLE VI—TRANSFER OF AERONAUTICAL CHARTING ACTIVITY

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SEC. 607. [49 U.S.C. 44721 note] PROCUREMENT OF PRIVATE ENTERPRISE MAPPING, CHARTING, AND GEOGRAPHIC INFORMATION SYSTEMS.

The Administrator shall consider procuring mapping, charting, and geographic information systems necessary to carry out the duties of the Administrator under title 49, United States Code, from private enterprises, if the Administrator determines that such procurement furthers the mission of the Federal Aviation Administration and is cost effective.

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TITLE VII—MISCELLANEOUS PROVISIONS

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SEC. 707. DISCRIMINATION AGAINST HANDICAPPED INDIVIDUALS.

(a)

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(c) [49 U.S.C. 41705 note] ESTABLISHMENT OF HIGHER INTERNATIONAL STANDARDS.—The Secretary shall work with appropriate international organizations and the aviation authorities of other nations to bring about the establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with air carriers.

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SEC. 726. [49 U.S.C. 47508 note] STANDARDS FOR AIRCRAFT AND AIRCRAFT ENGINES TO REDUCE NOISE LEVELS.

(a) DEVELOPMENT OF NEW STANDARDS.—The Secretary shall continue to work to develop through the International Civil Aviation Organization new performance standards for aircraft and aircraft engines that will lead to a further reduction in aircraft noise levels.

(b) GOALS TO BE CONSIDERED IN DEVELOPING NEW STANDARDS.—In negotiating standards under subsection (a), the Secretary shall give high priority to developing standards that—

(1) are performance based and can be achieved by use of a full range of certifiable noise reduction technologies;

(2) protect the useful economic value of existing Stage 3 aircraft in the United States fleet;

(3) ensure that United States air carriers and aircraft engine and hushkit manufacturers are not competitively disadvantaged;

(4) use dynamic economic modeling capable of determining impacts on all aircraft in service in the United States fleet; and

(5) continue the use of a balanced approach to address aircraft environmental issues, taking into account aircraft technology, land use planning, economic feasibility, and airspace operational improvements.

SEC. 732. [49 U.S.C. 44701 note] REGULATION OF ALASKA GUIDE PILOTS.

(a) **IN GENERAL.**—Beginning on the date of the enactment of this Act, flight operations conducted by Alaska guide pilots shall be regulated under the general operating and flight rules contained in part 91 of title 14, Code of Federal Regulations.

(b) **RULEMAKING PROCEEDING.**—

(1) **IN GENERAL.**—The Administrator shall conduct a rulemaking proceeding and issue a final rule to modify the general operating and flight rules referred to in subsection (a) by establishing special rules applicable to the flight operations conducted by Alaska guide pilots.

(2) **CONTENTS OF RULES.**—A final rule issued by the Administrator under paragraph (1) shall require Alaska guide pilots—

(A) to operate aircraft inspected no less often than after 125 hours of flight time;

(B) to participate in an annual flight review, as described in section 61.56 of title 14, Code of Federal Regulations;

(C) to have at least 500 hours of flight time as a pilot;

(D) to have a commercial rating, as described in subpart F of part 61 of such title;

(E) to hold at least a second-class medical certificate, as described in subpart C of part 67 of such title;

(F) to hold a current letter of authorization issued by the Administrator; and

(G) to take such other actions as the Administrator determines necessary for safety.

(3) **CONSIDERATION.**—In making a determination to impose a requirement under paragraph (2)(G), the Administrator shall take into account the unique conditions associated with air travel in the State of Alaska to ensure that such requirements are not unduly burdensome.

(c) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **LETTER OF AUTHORIZATION.**—The term “letter of authorization” means a letter issued by the Administrator once every 5 years to an Alaska guide pilot certifying that the pilot is in compliance with general operating and flight rules applicable to the pilot. In the case of a multi-pilot operation, at the

election of the operating entity, a letter of authorization may be issued by the Administrator to the entity or to each Alaska guide pilot employed by the entity.

(2) ALASKA GUIDE PILOT.—The term “Alaska guide pilot” means a pilot who—

(A) conducts aircraft operations over or within the State of Alaska;

(B) operates single engine, fixed-wing aircraft on floats, wheels, or skis, providing commercial hunting, fishing, or other guide services and related accommodations in the form of camps or lodges; and

(C) transports clients by such aircraft incidental to hunting, fishing, or other guide services.

SEC. 737. [49 U.S.C. 47106 note] COMPLIANCE WITH REQUIREMENTS.

Notwithstanding any other provision of law, in order to avoid unnecessary duplication of expense and effort, the Secretary may authorize the use, in whole or in part, of a completed environmental assessment or environmental impact study for new construction projects on the air operations area of an airport, if the completed assessment or study was for a project at the airport that is substantially similar in nature to the new project. Any such authorized use shall meet all requirements of Federal law for the completion of such an assessment or study.

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SEC. 740. [10 U.S.C. 2576 note] AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) AUTHORITY.—

(1) SALE OF AIRCRAFT AND AIRCRAFT PARTS.—Notwithstanding subchapter II of chapter 5 of title 40, United States Code, and subject to subsections (b) and (c), the Secretary of Defense may sell aircraft and aircraft parts referred to in paragraph (2) to a person or entity that provides oil spill response services (including the application of oil dispersants by air) pursuant to an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(2) AIRCRAFT AND AIRCRAFT PARTS THAT MAY BE SOLD.—The aircraft and aircraft parts that may be sold under paragraph (1) are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary of Defense to be—

- (A) excess to the needs of the Department; and
- (B) acceptable for commercial sale.

(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

(1) shall have as their primary purpose usage for oil spill spotting, observation, and dispersant delivery and may not have any secondary purpose that would interfere with oil spill response efforts under an oil spill response plan; and

(2) may not be flown outside of or removed from the United States except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, for

immediate response efforts for an oil spill outside United States waters that has the potential to threaten United States waters, or for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Homeland Security.

(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Homeland Security certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air, and that the overall system to be employed by that person or entity for the delivery and application of oil spill dispersants has been sufficiently tested to ensure that the person or entity is capable of being included in an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

(d) REGULATIONS.—

(1) ISSUANCE.—As soon as practicable after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Homeland Security and the Administrator of General Services, shall prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

(2) CONTENTS.—The regulations shall—

(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value, as determined by the Secretary of Defense, and, to the extent practicable, on a competitive basis;

(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other operators in accordance with the conditions set forth in subsection (b) or pursuant to subsection (e); and

(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

(f) REPORT.—Not later than March 31, 2006, the Secretary of Defense shall transmit to the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on National Security and Transportation and Infrastructure of the House of Representatives a report on the Sec-

retary's exercise of authority under this section. The report shall set forth—

(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

(2) the persons or entities to which the aircraft were sold; and

(3) an accounting of the current use of the aircraft sold.

(g) STATUTORY CONSTRUCTION.—

(1) AUTHORITY OF ADMINISTRATOR.—Nothing in this section may be construed as affecting the authority of the Administrator under any other provision of law.

(2) CERTIFICATION REQUIREMENTS.—Nothing in this section may be construed to waive, with respect to an aircraft sold under the authority of this section, any requirement to obtain a certificate from the Administrator to operate the aircraft for any purpose (other than oil spill spotting, observation, and dispersant delivery) for which such a certificate is required.

(h) PROCEEDS FROM SALE.—The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts.

(i) EXPIRATION OF AUTHORITY.—The authority to sell aircraft and aircraft parts under this section expires on September 30, 2006.

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TITLE VIII—NATIONAL PARKS AIR TOUR MANAGEMENT

SEC. 801. [49 U.S.C. 40128 note] SHORT TITLE.

This title may be cited as the “National Parks Air Tour Management Act of 2000”[49 U.S.C. 40128 note].

SEC. 802. [49 U.S.C. 40128 note] FINDINGS.

Congress finds that—

(1) the Federal Aviation Administration has sole authority to control airspace over the United States;

(2) the Federal Aviation Administration has the authority to preserve, protect, and enhance the environment by minimizing, mitigating, or preventing the adverse effects of aircraft overflights on public and tribal lands;

(3) the National Park Service has the responsibility of conserving the scenery and natural and historic objects and wildlife in national parks and of providing for the enjoyment of the national parks in ways that leave the national parks unimpaired for future generations;

(4) the protection of tribal lands from aircraft overflights is consistent with protecting the public health and welfare and is essential to the maintenance of the natural and cultural resources of Indian tribes;

(5) the National Parks Overflights Working Group, composed of general aviation, commercial air tour, environmental,

and Native American representatives, recommended that the Congress enact legislation based on the Group's consensus work product; and

(6) this title reflects the recommendations made by that Group.

SEC. 803. [49 U.S.C. 40128 note] AIR TOUR MANAGEMENT PLANS FOR NATIONAL PARKS.

(a) IN GENERAL.—Chapter 401 (as amended by section 706(a) of this Act) is further amended by adding at the end the following:

“SEC. 40128. Overflights of national parks

“(a) IN GENERAL.

“(1) GENERAL REQUIREMENTS. A commercial air tour operator may not conduct commercial air tour operations over a national park or tribal lands except—

“(A) in accordance with this section;

“(B) in accordance with conditions and limitations prescribed for that operator by the Administrator; and

“(C) in accordance with any applicable air tour management plan for the park or tribal lands.

“(2) APPLICATION FOR OPERATING AUTHORITY.

“(A) APPLICATION REQUIRED. Before commencing commercial air tour operations over a national park or tribal lands, a commercial air tour operator shall apply to the Administrator for authority to conduct the operations over the park or tribal lands.

“(B) COMPETITIVE BIDDING FOR LIMITED CAPACITY PARKS. Whenever an air tour management plan limits the number of commercial air tour operations over a national park during a specified time frame, the Administrator, in cooperation with the Director, shall issue operation specifications to commercial air tour operators that conduct such operations. The operation specifications shall include such terms and conditions as the Administrator and the Director find necessary for management of commercial air tour operations over the park. The Administrator, in cooperation with the Director, shall develop an open competitive process for evaluating proposals from persons interested in providing commercial air tour operations over the park. In making a selection from among various proposals submitted, the Administrator, in cooperation with the Director, shall consider relevant factors, including—

“(i) the safety record of the person submitting the proposal or pilots employed by the person;

“(ii) any quiet aircraft technology proposed to be used by the person submitting the proposal;

“(iii) the experience of the person submitting the proposal with commercial air tour operations over other national parks or scenic areas;

“(iv) the financial capability of the person submitting the proposal;

“(v) any training programs for pilots provided by the person submitting the proposal; and

“(vi) responsiveness of the person submitting the proposal to any relevant criteria developed by the National Park Service for the affected park.

“(C) NUMBER OF OPERATIONS AUTHORIZED. In determining the number of authorizations to issue to provide commercial air tour operations over a national park, the Administrator, in cooperation with the Director, shall take into consideration the provisions of the air tour management plan, the number of existing commercial air tour operators and current level of service and equipment provided by any such operators, and the financial viability of each commercial air tour operation.

“(D) COOPERATION WITH NPS. Before granting an application under this paragraph, the Administrator, in cooperation with the Director, shall develop an air tour management plan in accordance with subsection (b) and implement such plan.

“(E) TIME LIMIT ON RESPONSE TO ATMP APPLICATIONS. The Administrator shall make every effort to act on any application under this paragraph and issue a decision on the application not later than 24 months after it is received or amended.

“(F) PRIORITY. In acting on applications under this paragraph to provide commercial air tour operations over a national park, the Administrator shall give priority to an application under this paragraph in any case in which a new entrant commercial air tour operator is seeking operating authority with respect to that national park.

“(3) EXCEPTION. Notwithstanding paragraph (1), commercial air tour operators may conduct commercial air tour operations over a national park under part 91 of the title 14, Code of Federal Regulations if—

“(A) such activity is permitted under part 119 of such title;

“(B) the operator secures a letter of agreement from the Administrator and the national park superintendent for that national park describing the conditions under which the operations will be conducted; and

“(C) the total number of operations under this exception is limited to not more than five flights in any 30-day period over a particular park.

“(4) SPECIAL RULE FOR SAFETY REQUIREMENTS. Notwithstanding subsection (c), an existing commercial air tour operator shall apply, not later than 90 days after the date of the enactment of this section, for operating authority under part 119, 121, or 135 of title 14, Code of Federal Regulations. A new entrant commercial air tour operator shall apply for such authority before conducting commercial air tour operations over a national park or tribal lands. The Administrator shall make every effort to act on any such application for a new entrant and issue a decision on the application not later than 24 months after it is received or amended.

“(b) AIR TOUR MANAGEMENT PLANS.

“(1) ESTABLISHMENT.

“(A) IN GENERAL. The Administrator, in cooperation with the Director, shall establish an air tour management plan for any national park or tribal land for which such a plan is not in effect whenever a person applies for authority to conduct a commercial air tour operation over the park. The air tour management plan shall be developed by means of a public process in accordance with paragraph (4).

“(B) OBJECTIVE. The objective of any air tour management plan shall be to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences, and tribal lands.

“(2) ENVIRONMENTAL DETERMINATION. In establishing an air tour management plan under this subsection, the Administrator and the Director shall each sign the environmental decision document required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) which may include a finding of no significant impact, an environmental assessment, or an environmental impact statement and the record of decision for the air tour management plan.

“(3) CONTENTS. An air tour management plan for a national park—

“(A) may prohibit commercial air tour operations in whole or in part;

“(B) may establish conditions for the conduct of commercial air tour operations, including commercial air tour routes, maximum or minimum altitudes, time-of-day restrictions, restrictions for particular events, maximum number of flights per unit of time, intrusions on privacy on tribal lands, and mitigation of noise, visual, or other impacts;

“(C) shall apply to all commercial air tour operations within ½ mile outside the boundary of a national park;

“(D) shall include incentives (such as preferred commercial air tour routes and altitudes, relief from caps and curfews) for the adoption of quiet aircraft technology by commercial air tour operators conducting commercial air tour operations at the park;

“(E) shall provide for the initial allocation of opportunities to conduct commercial air tour operations if the plan includes a limitation on the number of commercial air tour operations for any time period; and

“(F) shall justify and document the need for measures taken pursuant to subparagraphs (A) through (E) and include such justifications in the record of decision.

“(4) PROCEDURE. In establishing an air tour management plan for a national park or tribal lands, the Administrator and the Director shall—

“(A) hold at least one public meeting with interested parties to develop the air tour management plan;

“(B) publish the proposed plan in the Federal Register for notice and comment and make copies of the proposed plan available to the public;

“(C) comply with the regulations set forth in sections 1501.3 and 1501.5 through 1501.8 of title 40, Code of Federal Regulations (for purposes of complying with the regulations, the Federal Aviation Administration shall be the lead agency and the National Park Service is a cooperating agency); and

“(D) solicit the participation of any Indian tribe whose tribal lands are, or may be, overflowed by aircraft involved in a commercial air tour operation over the park or tribal lands to which the plan applies, as a cooperating agency under the regulations referred to in subparagraph (C).

“(5) JUDICIAL REVIEW. An air tour management plan developed under this subsection shall be subject to judicial review.

“(6) AMENDMENTS. The Administrator, in cooperation with the Director, may make amendments to an air tour management plan. Any such amendments shall be published in the Federal Register for notice and comment. A request for amendment of an air tour management plan shall be made in such form and manner as the Administrator may prescribe.

“(c) INTERIM OPERATING AUTHORITY.

“(1) IN GENERAL. Upon application for operating authority, the Administrator shall grant interim operating authority under this subsection to a commercial air tour operator for commercial air tour operations over a national park or tribal lands for which the operator is an existing commercial air tour operator.

“(2) REQUIREMENTS AND LIMITATIONS. Interim operating authority granted under this subsection—

“(A) shall provide annual authorization only for the greater of—

“(i) the number of flights used by the operator to provide the commercial air tour operations within the 12-month period prior to the date of the enactment of this section; or

“(ii) the average number of flights per 12-month period used by the operator to provide such operations within the 36-month period prior to such date of enactment, and, for seasonal operations, the number of flights so used during the season or seasons covered by that 12-month period;

“(B) may not provide for an increase in the number of commercial air tour operations conducted during any time period by the commercial air tour operator above the number that the air tour operator was originally granted unless such an increase is agreed to by the Administrator and the Director;

“(C) shall be published in the Federal Register to provide notice and opportunity for comment;

“(D) may be revoked by the Administrator for cause;

“(E) shall terminate 180 days after the date on which an air tour management plan is established for the park or tribal lands;

“(F) shall promote protection of national park resources, visitor experiences, and tribal lands;

“(G) shall promote safe commercial air tour operations;

“(H) shall promote the adoption of quiet technology, as appropriate; and

“(I) shall allow for modifications of the interim operating authority based on experience if the modification improves protection of national park resources and values and of tribal lands.

“(3) NEW ENTRANT AIR TOUR OPERATORS.

“(A) IN GENERAL. The Administrator, in cooperation with the Director, may grant interim operating authority under this paragraph to an air tour operator for a national park or tribal lands for which that operator is a new entrant air tour operator if the Administrator determines the authority is necessary to ensure competition in the provision of commercial air tour operations over the park or tribal lands.

“(B) SAFETY LIMITATION. The Administrator may not grant interim operating authority under subparagraph (A) if the Administrator determines that it would create a safety problem at the park or on the tribal lands, or the Director determines that it would create a noise problem at the park or on the tribal lands.

“(C) ATMP LIMITATION. The Administrator may grant interim operating authority under subparagraph (A) of this paragraph only if the air tour management plan for the park or tribal lands to which the application relates has not been developed within 24 months after the date of the enactment of this section.

“(d) EXEMPTIONS. This section shall not apply to—

“(1) the Grand Canyon National Park; or

“(2) tribal lands within or abutting the Grand Canyon National Park.

“(e) LAKE MEAD. This section shall not apply to any air tour operator while flying over or near the Lake Mead National Recreation Area, solely as a transportation route, to conduct an air tour over the Grand Canyon National Park.

“(f) Definitions.—In this section, the following definitions apply:

“(1) COMMERCIAL AIR TOUR OPERATOR. The term ‘commercial air tour operator’ means any person who conducts a commercial air tour operation.

“(2) EXISTING COMMERCIAL AIR TOUR OPERATOR. The term ‘existing commercial air tour operator’ means a commercial air tour operator that was actively engaged in the business of providing commercial air tour operations over a national park at any time during the 12-month period ending on the date of the enactment of this section.

“(3) NEW ENTRANT COMMERCIAL AIR TOUR OPERATOR. The term ‘new entrant commercial air tour operator’ means a commercial air tour operator that—

“(A) applies for operating authority as a commercial air tour operator for a national park or tribal lands; and

“(B) has not engaged in the business of providing commercial air tour operations over the national park or tribal lands in the 12-month period preceding the application.

“(4) COMMERCIAL AIR TOUR OPERATION.

“(A) IN GENERAL. The term ‘commercial air tour operation’ means any flight, conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing over a national park, within ½ mile outside the boundary of any national park, or over tribal lands, during which the aircraft flies—

“(i) below a minimum altitude, determined by the Administrator in cooperation with the Director, above ground level (except solely for purposes of takeoff or landing, or necessary for safe operation of an aircraft as determined under the rules and regulations of the Federal Aviation Administration requiring the pilot-in-command to take action to ensure the safe operation of the aircraft); or

“(ii) less than 1 mile laterally from any geographic feature within the park (unless more than ½ mile outside the boundary).

“(B) FACTORS TO CONSIDER. In making a determination of whether a flight is a commercial air tour operation for purposes of this section, the Administrator may consider—

“(i) whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

“(ii) whether a narrative that referred to areas or points of interest on the surface below the route of the flight was provided by the person offering the flight;

“(iii) the area of operation;

“(iv) the frequency of flights conducted by the person offering the flight;

“(v) the route of flight;

“(vi) the inclusion of sightseeing flights as part of any travel arrangement package offered by the person offering the flight;

“(vii) whether the flight would have been canceled based on poor visibility of the surface below the route of the flight; and

“(viii) any other factors that the Administrator and the Director consider appropriate.

“(5) NATIONAL PARK. The term ‘national park’ means any unit of the National Park System.

“(6) TRIBAL LANDS. The term ‘tribal lands’ means Indian country (as that term is defined in section 1151 of title 18) that is within or abutting a national park.

“(7) ADMINISTRATOR. The term ‘Administrator’ means the Administrator of the Federal Aviation Administration.

“(8) DIRECTOR. The term ‘Director’ means the Director of the National Park Service.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 401 (as amended by section 706(b) of this Act) is further amended by adding at the end the following:

“40128. Overflights of national parks.”.

(c) COMPLIANCE WITH OTHER REGULATIONS.—For purposes of section 40128 of title 49, United States Code—

(1) regulations issued by the Secretary of Transportation and the Administrator under section 3 of Public Law 100-91 (16 U.S.C. 1a-1 note); and

(2) commercial air tour operations carried out in compliance with the requirements of those regulations, shall be deemed to meet the requirements of such section 40126.

SEC. 804. [49 U.S.C. 40128 note] QUIET AIRCRAFT TECHNOLOGY FOR GRAND CANYON.

(a) QUIET TECHNOLOGY REQUIREMENTS.—Within 12 months after the date of the enactment of this Act, the Administrator shall designate reasonably achievable requirements for fixed-wing and helicopter aircraft necessary for such aircraft to be considered as employing quiet aircraft technology for purposes of this section. If the Administrator determines that the Administrator will not be able to make such designation before the last day of such 12-month period, the Administrator shall transmit to Congress a report on the reasons for not meeting such time period and the expected date of such designation.

(b) ROUTES OR CORRIDORS.—In consultation with the Director and the advisory group established under section 805, the Administrator shall establish, by rule, routes or corridors for commercial air tour operations (as defined in section 40128(f) of title 49, United States Code) by fixed-wing and helicopter aircraft that employ quiet aircraft technology for—

(1) tours of the Grand Canyon originating in Clark County, Nevada; and

(2) “local loop” tours originating at the Grand Canyon National Park Airport, in Tusayan, Arizona, provided that such routes or corridors can be located in areas that will not negatively impact the substantial restoration of natural quiet, tribal lands, or safety.

(c) OPERATIONAL CAPS.—Commercial air tour operations by any fixed-wing or helicopter aircraft that employs quiet aircraft technology and that replaces an existing aircraft shall not be subject to the operational flight allocations that apply to other commercial air tour operations of the Grand Canyon, provided that the cumulative impact of such operations does not increase noise at the Grand Canyon.

(d) MODIFICATION OF EXISTING AIRCRAFT TO MEET STANDARDS.—A commercial air tour operation by a fixed-wing or helicopter aircraft in a commercial air tour operator’s fleet on the date of the enactment of this Act that meets the requirements designated under subsection (a), or is subsequently modified to meet the requirements designated under subsection (a), may be used for commercial air tour operations under the same terms and condi-

tions as a replacement aircraft under subsection (c) without regard to whether it replaces an existing aircraft.

(e) **MANDATE TO RESTORE NATURAL QUIET.**—Nothing in this Act shall be construed to relieve or diminish—

(1) the statutory mandate imposed upon the Secretary of the Interior and the Administrator of the Federal Aviation Administration under Public Law 100-91 (16 U.S.C. 1a-1 note) to achieve the substantial restoration of the natural quiet and experience at the Grand Canyon National Park; and

(2) the obligations of the Secretary and the Administrator to promulgate forthwith regulations to achieve the substantial restoration of the natural quiet and experience at the Grand Canyon National Park.

SEC. 805. [49 U.S.C. 40128 note] ADVISORY GROUP.

(a) **ESTABLISHMENT.**—Not later than 1 year after the date of the enactment of this Act, the Administrator and the Director of the National Park Service shall jointly establish an advisory group to provide continuing advice and counsel with respect to commercial air tour operations over and near national parks.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The advisory group shall be composed of—

(A) a balanced group of—

(i) representatives of general aviation;

(ii) representatives of commercial air tour operators;

(iii) representatives of environmental concerns;

and

(iv) representatives of Indian tribes;

(B) a representative of the Federal Aviation Administration; and

(C) a representative of the National Park Service.

(2) **EX OFFICIO MEMBERS.**—The Administrator (or the designee of the Administrator) and the Director (or the designee of the Director) shall serve as ex officio members.

(3) **CHAIRPERSON.**—The representative of the Federal Aviation Administration and the representative of the National Park Service shall serve alternating 1-year terms as chairman of the advisory group, with the representative of the Federal Aviation Administration serving initially until the end of the calendar year following the year in which the advisory group is first appointed.

(c) **DUTIES.**—The advisory group shall provide advice, information, and recommendations to the Administrator and the Director—

(1) on the implementation of this title and the amendments made by this title;

(2) on commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) on other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) at the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.

(d) COMPENSATION; SUPPORT; CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—

(1) COMPENSATION AND TRAVEL.—Members of the advisory group who are not officers or employees of the United States, while attending conferences or meetings of the group or otherwise engaged in its business, or while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) ADMINISTRATIVE SUPPORT.—The Federal Aviation Administration and the National Park Service shall jointly furnish to the advisory group clerical and other assistance.

(3) NONAPPLICATION OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—Section 1013 of title 5, United States Code, does not apply to the advisory group.

SEC. 806. [49 U.S.C. 40128 note] PROHIBITION OF COMMERCIAL AIR TOUR OPERATIONS OVER THE ROCKY MOUNTAIN NATIONAL PARK.

Effective beginning on the date of the enactment of this Act, no commercial air tour operation may be conducted in the airspace over the Rocky Mountain National Park notwithstanding any other provision of this Act or section 40128 of title 49, United States Code.

SEC. 807. [49 U.S.C. 40128 note] REPORTS.

(a) OVERFLIGHT FEE REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the effects overflight fees are likely to have on the commercial air tour operation industry. The report shall include, but shall not be limited to—

(1) the viability of a tax credit for the commercial air tour operators equal to the amount of any overflight fees charged by the National Park Service; and

(2) the financial effects proposed offsets are likely to have on Federal Aviation Administration budgets and appropriations.

(b) QUIET AIRCRAFT TECHNOLOGY REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator and the Director of the National Park Service shall jointly transmit a report to Congress on the effectiveness of this title in providing incentives for the development and use of quiet aircraft technology.

SEC. 808. [49 U.S.C. 40128 note] METHODOLOGIES USED TO ASSESS AIR TOUR NOISE.

Any methodology adopted by a Federal agency to assess air tour noise in any unit of the national park system (including the Grand Canyon and Alaska) shall be based on reasonable scientific methods.

SEC. 809. [49 U.S.C. 40128 note] ALASKA EXEMPTION.

The provisions of this title and section 40128 of title 49, United States Code, as added by section 803(a), do not apply to any land or waters located in Alaska.

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